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SCHMELZ'S ADM'R *v.* McMENAMIN et al.

June 8, 1916.

[89 S. E. 126.]

**1. Executors and Administrators (§ 221 (4)\*)—Claims—Evidence.**

—In a suit by the administrator of a deceased executor, where distributees of testator's estate claimed from the estate of the said executor a debt due from the executor to the estate of testator, evidence held sufficient to show such indebtedness.

[Ed. Note.—For other cases, see Executors and Administrators, Cent. Dig. §§ 903, 903½, 1872-1874, 1876; Dec. Dig. § 221 (4).\* 5 Va.-W. Va. Enc. Dig. 538.]

**2. Executors and Administrators (§ 88\*)—Collection of Assets—Debts Due from Executor.**—Where one who owes a decedent becomes his executor, it is his duty to charge himself with the debt.

[Ed. Note.—For other cases, see Executors and Administrators, Cent. Dig. §§ 393, 393½; Dec. Dig. § 88.\* 5 Va.-W. Va. Enc. Dig. 538.]

Appeal from Circuit Court, Elizabeth City County.

Suit by surviving administrator of the estate of George A. Schmeltz, in which James McMenemy and others petitioned for allowance of claim. From a decree for petitioners, complainant appeals. Affirmed.

*J. Winston Read*, of Newport News, for appellant.

*Allan D. Jones*, of Newport News, for appellees.

HOSTETTER et al. *v.* HITCHINGS.

June 8, 1916.

[89 S. E. 135.]

**1. Easements (§ 61 (9)\*)—Right of Way—Evidence.**—Evidence on a bill to enjoin the obstruction of an alleged private right of way in a so-called street held to show that complainant was entitled to the use of such street as a private right of way.

[Ed. Note.—For other cases, see Easements, Cent. Dig. § 143; Dec. Dig. § 61 (9).\* 4 Va.-W. Va. Enc. Dig. 855.]

**2. Easements (§ 12 (2)\*)—Grant—Construction.**—A deed of a lot out of a tract which had been subdivided into lots and streets, situated on a corner, and running back on a street intersecting the front street which the deed provided was "not to be used by the public" presented a case for the application of the rule, "expressio unius est exclusio alterius."

[Ed. Note.—For other cases, see Easements, Cent. Dig. §§ 35-38; Dec. Dig. § 12 (2).\* 4 Va.-W. Va. Enc. Dig. 865.]

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\*For other cases see same topic and KEY-NUMBER in all Key-Numbered Digests and Indexes.